

REMARKS/ARGUMENTS

The present amendment is submitted in accordance with the *Revised Amendment Format* as set forth in the Notice provided on the U.S. PTO web site for the Office of Patent Legal Administration; Pre-OG Notices; signed January 31, 2003.

Claims 21-44 are pending in the application. Claims 21-28 are rejected. Claims 29-44 are withdrawn. No claims are allowed.

Claims 29-44 have been canceled without prejudice to subsequent revival. Applicants reserve the right to prosecute these claims in a divisional application. Claims 21, 22, 24 and 27 have been amended. Entry of the amendment, reconsideration of the rejection, and allowance of claims 21-28 are requested.

The Amendment

In order to expedite prosecution of the application, the claims have been amended. No new matter was introduced by this amendment.

Claim 21 has been amended to add the phrase "isolated and purified" before the term "antibody" in order to comply with the Examiner's suggestion. Support for this amendment can be found on page 16, lines 26-34; page 17, lines 1-10; and page 47, lines 5-15. The claim has also been amended to add the phrase "which specifically binds" before the term "protein" to specify that the antibody binds specifically to a protein having cortistatin-like activity. Support for this amendment can be found on page 15, lines 17-22 and page 44, lines 17-21 of the specification. Claim 21 has been further amended to delete the phrase "and sequences having at least about 95% amino acid residue similarity to SEQ ID NOs: 23, 24 and 26" and to further clarify the claim. Support for this amendment can be found on page 5, lines 12-20.

Claim 22 has been amended to delete the term "substantially" from the claims. Support for this amendment can be found on page 44, lines 30-32.

Claim 24 has been amended to provide for correct antecedent basis.

Claim 27 has been amended to correct a minor misspelling.

Rejection under 35 U.S.C. §101

Claims 21-22 and 24 are rejected under 35 U.S.C. §101 because the claimed invention is allegedly directed to non-statutory subject matter because the recitation of "an antibody" encompasses all naturally occurring antibodies. The Examiner suggests that amending the claims to "an isolated and purified antibody" should obviate the rejection.

Claim 21 has been amended accordingly, *i.e.*, the phrase "isolated and purified" has been added to the claim before the term "antibody" (see *The Amendment* section, *supra*). Claims 22 and 24 depend directly on amended claim 21. In light of this amendment, Applicants respectfully request that the rejection of claims 21-22 and 24 under 35 U.S.C. §101 be withdrawn.

Rejection under 35 U.S.C. §112

Claims 21-28 are rejected under 35 U.S.C. §112, first paragraph, because the specification while being enabling for various types of antibodies directed against specific epitopes within the cortistatin protein molecule of SEQ ID NOS: 23, 24 or 26, is allegedly not enabling for antibodies directed to structurally and functionally uncharacterized proteins that are at least about 95% amino acid residues similar to a SEQ ID NO.

Claim 21 has been amended to delete the phrase "and sequences having at least about 95% amino acid residue similarity to SEQ ID NOS: 23, 24 and 26" (see *The Amendment* section, *supra*). However, the amendment is made to advance the case toward allowance and should not be construed as an acquiescence in the rejection. Claims 22-28 depend directly or indirectly on amended claim 21. In light of the this amendment, Applicants respectfully request that the rejection of claims 21-28 under 35 U.S.C. §112, first paragraph, be withdrawn.

Claim 22 is rejected under 35 U.S.C. §112, second paragraph, as being indefinite for allegedly failing to point out and distinctly claim the subject matter. The Office Action indicates that the term "substantially free" in claim 22 is a relative term which renders the claim indefinite. The Examiner further asserts that the term "substantially free from immunoreaction"

is not defined by the claim and the specification does not provide a standard for ascertaining the requisite degree.

Claim 22 has been amended accordingly and the term "substantially" has been deleted from the claim (see *The Amendment, supra*). In light of this amendment, Applicants respectfully request that the rejection of claim 22 under 35 U.S.C. §112, second paragraph, be withdrawn.

Claims 21-28 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for allegedly failing to point out and distinctly claim the subject matter. The Office Action indicates that the recitation "at least about" is ambiguous.

Claims 21-28 have been amended (see *The Amendment* section, *supra*) and the recitation "at least about" is no longer included in the claims. In light of this amendment, the rejection is moot. Hence, Applicants respectfully request that the rejection of claims 21-28 under 35 U.S.C. §112, second paragraph, be withdrawn.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,



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